

SENATE BILL No. 393

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-4.5.

Synopsis: Small short term consumer loans. Regulates certain small short term loans under the Uniform Consumer Credit Code.

Effective: July 1, 2002.

Bowser

January 10, 2002, read first time and referred to Committee on Insurance and Financial Institutions.

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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

SENATE BILL No. 393

A BILL FOR AN ACT to amend the Indiana Code concerning consumer credit.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 24-4.5-1-303 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 303. Index of
3 Definitions in Article—Definitions in this article and the sections in
4 which they appear are:
5 "Agreement" Section 1-301 (1)
6 "Agricultural purpose" Section 1-301 (2)
7 "Amount financed" Section 2-111
8 "Average daily balance" Section 1-301 (3)
9 "Cash price" Section 2-110
10 **"Check" Section 7-106**
11 "Civil court" Section 6-117
12 "Closing costs" Section 1-301 (4)
13 "Conspicuous" Section 1-301 (5)
14 "Consumer credit" Section 1-301 (6)
15 "Consumer credit insurance" Section 4-103
16 "Consumer credit sale" Section 2-104
17 "Consumer lease" Section 2-106



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1	"Consumer loan"	Section 3-104
2	"Consumer related loan"	Section 3-602
3	"Consumer related sale"	Section 2-602
4	"Credit"	Section 1-301 (7)
5	"Creditor"	Section 1-301 (8)
6	"Credit insurance act"	Section 4-102 (3)
7	"Credit service charge"	Section 2-109
8	"Deferred deposit transaction"	Section 7-105
9	"Department"	Section 6-103
10	"Director"	Section 6-103.5
11	"Earnings"	Section 1-301 (9)
12	"Federal Consumer Credit	
13	Protection Act"	Section 1-302
14	"Goods"	Section 2-105 (1)
15	"Home solicitation sale"	Section 2-501
16	"Lender"	Section 3-107 (1)
17	"Lender credit card or similar	
18	arrangement"	Section 1-301 (10)
19	"Loan"	Section 3-106
20	"Loan finance charge"	Section 3-109
21	"Loan primarily secured by an	
22	interest in land"	Section 3-105
23	"Merchandise certificate"	Section 2-105 (2)
24	"Mortgage transaction"	Section 1-301 (17)
25	"Official fees"	Section 1-301 (11)
26	"Organization"	Section 1-301 (12)
27	"Payable in installments"	Section 1-301 (13)
28	"Person"	Section 1-301 (14)
29	"Person related to"	Section 1-301 (15)
30	"Precomputed" (loan)	Section 3-107 (2)
31	"Precomputed" (sale)	Section 2-105 (7)
32	"Presumed" or "Presumption"	Section 1-301 (16)
33	"Principal"	Section 3-107 (3)
34	"Regularly engaged"	Section 1-301 (18)
35	"Renewal"	Section 7-107
36	"Revolving charge account"	Section 2-108
37	"Revolving loan account"	Section 3-108
38	"Sale of goods"	Section 2-105 (4)
39	"Sale of an interest in land"	Section 2-105 (6)
40	"Sale of services"	Section 2-105 (5)
41	"Seller"	Section 2-107
42	"Seller credit card"	Section 1-301 (19)

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1 "Services" Section 2-105 (3)
 2 **"Small loan" Section 7-104**
 3 "Supervised financial
 4 organization" Section 1-301 (20)
 5 "Supervised lender" Section 3-501 (2)
 6 "Supervised loan" Section 3-501 (1)
 7 SECTION 2. IC 24-4.5-7 IS ADDED TO THE INDIANA CODE
 8 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2002]:

10 **Chapter 7. Small Loans**

11 **Sec. 101. This chapter shall be known and may be cited as**
 12 **Uniform Consumer Credit Code — Small Loans.**

13 **Sec. 102. Except as otherwise provided, all provisions of this**
 14 **article applying to consumer loans apply to small loans, as defined**
 15 **in this chapter.**

16 **Sec. 103. The following definitions apply to this chapter:**

17 **"Small loan" Section 7-104**

18 **"Deferred deposit transaction" Section 7-105**

19 **"Check" Section 7-106**

20 **"Renewal" Section 7-107**

21 **Sec. 104. "Small loan" means a deferred deposit transaction**
 22 **with a principal loan amount of five hundred dollars (\$500) or less**
 23 **with a term of less than thirty (30) days.**

24 **Sec. 105. "Deferred deposit transaction" means, for**
 25 **consideration, accepting a check and holding the check for a period**
 26 **of time before deposit or presentment in accordance with an**
 27 **agreement between the maker and the lender. The agreement may**
 28 **be expressed or implied.**

29 **Sec. 106. For purposes of this chapter, "check" has the meaning**
 30 **set forth in IC 26-1-3.1-104.**

31 **Sec. 107. "Renewal" refers to a deferred deposit transaction**
 32 **that takes the place of an existing deferred deposit transaction,**
 33 **where a check held as security is not deposited into an account of**
 34 **the lender at a depository institution.**

35 **Sec. 201. (1) Loan finance charges on an initial small loan and**
 36 **the first renewal of a small loan are limited to the lesser of:**

37 **(a) fifteen percent (15%) of the face amount of the loan; or**

38 **(b) thirty dollars (\$30).**

39 **(2) Loan finance charges on a second renewal of a small loan are**
 40 **limited to seventy-five percent (75%) of the loan finance charge of**
 41 **the initial small loan.**

42 **Sec. 202. (1) Notwithstanding any other law, only the following**

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fees may be contracted for and received by the lender on a small loan or subsequent refinancing:

(a) The parties may contract for a delinquency charge of not more than five dollars (\$5) on any installment not paid in full within ten (10) days after its scheduled due date.

(b) A delinquency charge under this section may be collected only once on an installment, however long it remains in default. A delinquency charge may be collected any time after it accrues.

(c) The amount of five dollars (\$5) in subdivision (a) is subject to change under the section on adjustment of dollar amounts (IC 24-4.5-1-106).

(d) If the parties provide by contract for a delinquency charge that is subject to change, the lender shall disclose that the amount of the delinquency charge is subject to change as allowed by IC 24-4.5-1-106.

(2) The agreement may provide for the payment by the consumer of reasonable attorney's fees after default and referral to an attorney who is not a salaried employee of the lender. A provision in violation of this section is unenforceable.

(3) An additional charge may be made not to exceed twenty dollars (\$20) for each return by a bank or other depository institution of a dishonored check, negotiable order of withdrawal, or share draft issued by the consumer.

Sec. 301. (1) For purposes of this section, the lender shall disclose to the consumer to whom credit is extended with respect to a small loan or subsequent refinancing the information required by the Federal Consumer Credit Protection Act.

(2) In addition to the requirements of subsection (1), the lender must conspicuously display in bold type a notice to the public both in the lending area of each business location and in the loan documents the following statement:

"WARNING: The cost of your transaction may be higher than similar transactions offered by other lending institutions. The transactions are regulated by the State of Indiana, Department of Financial Institutions. The transaction may be refinanced only one time, after which payment in full is required."

Sec. 401. A small loan may not be made for a term of less than fourteen (14) days.

Sec. 402. A small loan may be secured by only one (1) check per deferred deposit transaction. The check may not exceed the

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amount advanced to or on behalf of the consumer, plus loan finance charges contracted for.

Sec. 403. A small loan may not be secured by personal property other than a check.

Sec. 404. With respect to a small loan or subsequent refinancing, no lender may permit a person to become obligated under more than one (1) loan agreement. The excess amount of loan finance charge provided for in agreements in violation of this section is an excess charge for purposes of the provisions on effect of violations on rights of parties (IC 24-4.5-5-202) and the provisions on civil actions by the department (IC 24-4.5-6-113).

Sec. 405. A lender may carry on other business at a location where the lender makes small loans unless the lender carries on other business to evade or violate this article.

Sec. 406. (1) A lender may not take an assignment of earnings of the consumer for payment or as security for payment of a debt arising out of a small loan or otherwise. An assignment of earnings in violation of this section is unenforceable by the assignee of the earnings and revocable by the consumer. This section does not prohibit an employee from authorizing deductions from the employee's earnings if the authorization is revocable and is permitted by law.

(2) A sale of unpaid earnings made in consideration of the payment of money to or for the account of the seller of the earnings is considered to be a loan to the seller secured by an assignment of earnings.

Sec. 407. An agreement with respect to a small loan may not provide for charges as a result of default by the consumer other than those authorized by this chapter. A provision in violation of this section is unenforceable.

Sec. 408. A lender may not permit a consumer to refinance the same small loan more than two (2) times.

Sec. 409. (1) A renewal or a refinancing of a small loan requires:

- (a) a new contractual agreement;
- (b) a new check as security; and
- (c) new disclosures under IC 24-4.5-7-301.

(2) If a customer pays off the small loan in cash or its equivalent, the check that was held as security must be returned to the customer.

Sec. 410. Except when a customer has written a check on an account that is closed before the agreed upon negotiation date for the check, a civil or criminal penalty does not apply to small loan

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- 1 transactions under IC 26-2-7, IC 34-24-3, IC 34-4-30 (before its
2 repeal), or IC 35-43-5. A contractual agreement in a small loan
3 transaction must include the above language.

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